

BOARD OF COUNTY COMMISSIONERS
Agenda Item Summary

Meeting Date

Division

County Attorney

AGENDA ITEM WORDING

Approval of a resolution a resolution acknowledging that advisory board members have a fiduciary duty to Monroe County, and setting forth a description of that duty, a breach of which may result in removal from office.

ITEM BACKGROUND

County has no specific code of conduct for advisory board members to address circumstances not specifically prohibited by Statute. This resolution would require advisory board members to act as a fiduciary to the County and would require them to give County prior notice of any activity, such as a business transaction or lawsuit which the board member plans to enter if that activity relates to the subject matter of their board.

PREVIOUS RELEVANT BOCC ACTION

CONTRACT/AGREEMENT CHANGES

STAFF RECOMMENDATIONS

Approval.

TOTAL COST

BUDGETED Yes No

COST TO COUNTY

SOURCE OF FUNDS

APPROVED BY: County Attorney ☒ OMB/Purchasing ☐ Risk Management ☐

DIVISION DIRECTOR APPROVAL:


JOHN R. COLLINS

DOCUMENTATION: Included ☐ To Follow ☐ Not Required ☐

AGENDA ITEM _____

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A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY ACKNOWLEDGING THAT ADVISORY BOARD MEMBERS HAVE A FIDUCIARY DUTY TO MONROE COUNTY, AND SETTING FORTH A DESCRIPTION OF THAT DUTY, A BREACH OF WHICH MAY RESULT IN REMOVAL FROM OFFICE.

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY (hereinafter "COUNTY") has approximately 50 advisory boards and at least two boards, The Planning Commission and the Contractors Examining Board, which act in advisory capacity in addition to having jurisdiction for action in their own right; and

WHEREAS, Article 2, Section 8 of the Florida Constitution provides that "a public office is a public trust;"

WHEREAS, members of advisory boards are deemed public officers subject to the code of conduct set forth in Florida Code of Ethics for Public Officers and Employees, as set forth in Florida Statutes, Sections 112.311, *et. seq.*; and

WHEREAS, Section 112.311(5), F.S., sets forth policy governing county and municipal officers to the effect that no public officer or employee shall engage in any business transaction which is in substantial conflict with the proper discharge of his or her duties to the public; and

WHEREAS, Section 112.311(6), F.S., declares that public officers and employees are bound to observe the highest standard of ethics consistent with the Code by "recognizing that promoting the public interest and maintaining the respect of the people in their government must be of foremost concern;" and

WHEREAS, the COUNTY finds that certain activities not specified in the State statutory Code of Ethics give rise to distrust, disregard, or contempt of the public toward their government; and

WHEREAS, the COUNTY has establish a code of conduct for employees in its Personnel Policies but has no such Code regarding advisory boards; and

WHEREAS, the COUNTY finds it in the best interest of the public to describe certain activities which, in addition to the actions prohibited by State statute, tend to generate ill feelings by the public towards their government;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, that:

Section 1. The standards of conduct with which advisory board members are required to comply shall include, but not be limited to, the following:

- A. The Code of Ethics for Public Officers and Employees, as set forth by the State of Florida in F.S. 112.311, *et.seq.*

B. Maintenance of a fiduciary relationship with the COUNTY, which shall require acting primarily for the County's benefit in matters related to the advisory board of which he or she is a member.

- (i) Fiduciary relationship is defined, for the purposes of this resolution, as the relationship which exists where there is a special confidence reposed in the advisory board member as evidenced by the appointment of that person to the advisory board, and who in equity and in good conscience is bound to act in good faith and with due regard to the COUNTY's best interests; and
- (ii) An advisory board member shall deal with the subject matter in which the advisory board has an interest in such a manner as to provide no benefit to the board member and which will in no way prejudice the COUNTY except with the prior full knowledge and consent of the COUNTY.

Section 2. Should a written and signed complaint be received by the COUNTY, a newspaper article be published, or other public notice occur of an alleged infraction of the foregoing code of conduct for advisory board members, the matter shall be investigated by the County Administrator or his designee, giving the advisory board member an opportunity to set forth his or her position to the investigator, and a recommendation shall be made to the COUNTY, which shall be limited to the following:

- A. Removal from office;
- B. Letter of reprimand and requirement to forbear from any such activity in the future;
- C. Letter finding no digression from the foregoing code of conduct.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said Board held on the _____ day of January, 2004.

Mayor Nelson
Mayor Pro Tem Rice
Commissioner McCoy
Commissioner Neugent
Commissioner Spehar

(SEAL)
Attest: DANNY L.KOLHAGE, Clerk


BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By _____
Deputy Clerk

By _____
Mayor/Chairperson

Jresadvisorybd

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:


SUZANNE A. HUTTON
ASSISTANT COUNTY ATTORNEY
Date 1/05/04